

NTSB Order No. EA-5107

Issued under delegated authority (49 C.F.R. 800.24)
on the 20th day of August, 2004

Respondent.

Docket SE-16946

The Administrator has moved to dismiss the appeal filed by the respondent in this proceeding because it was not perfected by the filing of a timely appeal brief, as required by Section 821.48(a) of the Board's Rules of Practice (49 C.F.R. Part 821).¹

(a) Appeal brief....each appeal must be perfected, within 50 days after the date on which the oral initial decision was rendered, or 30 days after the date on which the written initial decision or appealable order was served, by the filing, and simultaneous service on the other parties, of a brief in support of the appeal. An appeal may be dismissed by the Board, either on its own initiative or on motion of another party, where a party who has filed a notice of appeal fails to perfect the appeal by filing a timely appeal brief.

We will grant the motion, to which respondent filed no responsive pleading.

The record establishes that respondent filed a timely notice of appeal from the law judge's May 26th order, but he did not file an appeal brief within 30 days after that date, that is, by June 25, 2004.²

In the absence of good cause to excuse respondent's failure either to perfect his appeal by filing a timely appeal brief or to submit a timely extension request for filing the brief after the deadline, dismissal of his appeal is required by Board precedent. See Administrator v. Hooper, 6 NTSB 559 (1988).

ACCORDINGLY, IT IS ORDERED THAT:

1. The Administrator's motion to dismiss is granted; and
2. The respondent's appeal is dismissed.

Ronald S. Battocchi
General Counsel

²The law judge affirmed an order of the Administrator revoking any and all of respondent's airman and flight instructor certificates, including Airline Transport Pilot Certificate No. 236786480 and Flight Instructor Certificate No. 236786480, pursuant to section 61.15(a) of the Federal Aviation Regulations, 14 CFR Part 61, and 49 U.S.C. section 44710, for his federal court drug conviction.